(22)

HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

DIVISION BENCH

CORAM : HON'BLE SHRI S.R. NAYAK, CJ
& HON'BLE SHRI D.R. DESHMUKH, J.

M.A. No.896 of 2006

APPLICANTS CLAIMANTS

1. Smt. Jasvindar Kaur, Aged about 42 years, Widow of Sukhbir Singh, Occupation Housewife.
2. Gagandip, Aged about 17 years, Minor, D/o Late Sukhbir Singh
3. Gurudarshan Singh, Aged about 16 years, Minor, D/o Late Sukhbir Singh

Appellant No. 2 & 3 are Minor, Represented through their mother Smt. Jasvindar Kaur, Appellant No.1
All R/o House No. 789, Sector 4, Udaya Society, Tatibandh, Raipur, Tahsil & District Raipur (C.G.)

VERSUS

RESPONDENTS NON-APPLICANTS

1. Latesh Kumar, Son of Jagat Ram Sonbirse, Occupation – Driver, R/o Mohaba Bazar, P.S. Aamanaka, Tahsil & District Raipur (C.G.)
2. Radhe Shyam Ratre (Datt) S/o. Late Gonduji Ratre, Occupation – Owner of the vehicle, R/o House No. G-1, Bagh Colony, Jaysthambh Chowk, P.S. Balaghat, Tahsil & District Balaghat (M.P.)
3. The National Insurance Company Limited, Branch Office – Balaghat, Through Divisional Manager, Divisional Office – Mobin Mahal, G.E. Road, Raipur (C.G.)

Present: Shri Ashok Soni, learned counsel for the appellants.

ORAL ORDER
(Passed on 24th August, 2006)

The following oral order of the Court was passed by

S.R. NAYAK, CJ .

The dependents of the deceased, feeling aggrieved by the quantum of compensation awarded by the M.A.C.T. and seeking more compensation, have preferred this appeal.

(2) We have heard learned counsel for the appellants. It was first contended by learned counsel for the appellants that the MACT is not justified in taking the annual income of the deceased @ Rs. 87,000/- for the purpose of computing loss of dependency. It was next contended by learned counsel for the appellants that what has been awarded under the conventional heads is on lower side. We do not find any merit in the first contention. The income tax return filed by the deceased during the assessment year 2004-05 was produced and marked as Ex. P/1. The original records of the MACT are made available to us. We have perused the same. As per the return, the aggregate annual income of the deceased was only Rs. 87030/-. The MACT without any deductions took that income as the annual income of the deceased for computing loss of dependency. The contention is that in the oral evidence of Claimant No.1, she stated that the deceased was earning annual income of Rs. 6,63,900/-. This claim cannot be countenanced in the absence of any substantive legal evidence to support that plea. The self-serving statement of the first claimant cannot be accepted as true, particularly, in view of Ex. P/1. Therefore, we do not find any merit in the first contention.

(3) The MACT has awarded Rs. 10,000/- towards loss of love and affection to the children, Rs. 5,000/- towards loss of consortium to the widow, Rs. 10,000/- towards loss of estate and Rs.2,000/- towards funeral expenses. In the facts and circumstances of the case and taking into account the totality of the circumstances and also the total compensation of Rs. 7,81,000/- awarded by the MACT, we are of the considered opinion that what is awarded is just and reasonable compensation and the appellants are not entitled to seek enhancement of the compensation. The appeal is devoid of merit and it is accordingly dismissed. No costs.

Sd/-
Chief Justice

Sd-/
Dilip Raosaheb Deshmukh
Judge

Subbu